c.f. issue

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PET NO. 219 /2004 Single Bench

PETITIONER

Udal, son of Nandram Suryavanshi, Timber Mistry, T. No. 1962, R/o. Vivek Nagar Colony, Qtr No. M/353, PO Kelauhari, P.S. Chachai, Tehsil – Anuppur, Distt. Shahdol (M.P.),

Permanent address :

Village – Pakaria, Post Office-Korabhat, Police Station – Shivrinarayan, Teh Pamgarh, Distt. Janjgir-Champa (C.G.)

P. R. No. 2146/04
Presented by Shri Alok Kumar Shrivastava
dated 21-1-04

VERSUS

RESPONDENTS

1. The Chairman-Cum-Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur (Chhattisgarh)

2. The General Manager, South Eastern Coalfields Limited, Sohagpur Area, Post Office – Dhanpuri, Distt. Shahdol (MP)

3. The Manager / Superintendent of Mines, South Eastern Coalfields Limited, Bangwar Project, Sohagpur Area, PO – Bimouhari, P.S.-Dhanpuri, Tah. Anuppur, Distt. Shahdol (MP)

4. The Chief Personnel Manager, South Eastern Coalfields Limited, Sohagpur Area, PO Dhanpuri, P.S. Amlai, Tehsil-Sohagpur, Distt. Shahdol (Madhya Pradesh)

A.K. Gupta

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WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR APPROPRIATE ORDER/ORDERS,DIRECTION/ DIRECTIONS.

(47)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2119 of 2004

Petitioner — Udal

Versus

Respondents — The Chairman-cum-Managing Director, South Eastern Coalfields Limited and others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

None for the petitioner.

None for the respondents.

ORDER

(23rd August, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner had filed earlier one more petition, being W. P. No.1393 of 2003 in this Court with the submission that the petitioner was appointed on 31.3.1976. At the time of initial appointment of the petitioner at Chachai, District- Sahdol he had informed his date of birth as 4.4.1952. In the year 2001 when the petitioner was transferred from Chachai to Bangwar Project, at that time it was pointed out to him that in the service record his date of birth is recorded as 1.4.1944, instead of 4.4.1952. When the petitioner came to know about this fact he made several representations but the respondents had not corrected his date of birth. The petitioner prayed that his case for determination of the date of birth be sent to the Age Determination Committee, because as per the provisions contained in Implementation Instruction No. 76 dated 25.4.1988 the respondents ought to have referred the matter to the Age Determination Committee.

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2. In the said writ petition, the respondents had filed their return wherein it was mentioned that the date of birth of the petitioner, as given by him at the time of his appointment, was recorded in the service book. He was appointed on 31st March, 1976 to the post of Timber Man and at that time, he had given his age as 35 years as on 1.4.1979 and according to his information his date of birth was recorded as 1.4.1944. At the time of initial appointment the petitioner did not produce any educational certificate and on the contrary he put his thumb impression over the service book thus showing himself to be illiterate. At the fag end of service when the petitioner had to retire on 1.4.2004 he had raised the dispute about his date of birth with a view to get ten years extension of service.

3. This Court, vide order dated 15.3.2003 allowed Writ Petition No. 1393/2003 and directed the respondents to refer the matter of the petitioner to the Age Determination Committee for determination of age and to act according to the finding of the Age Determination Committee.

4. The petitioner has filed this petition seeking a relief that the petitioner be examined by the State Government Medical Board, Sahdol or Bilaspur so that actual age of the petitioner can be ascertained, seeking almost the same relief as sought for in the earlier petition i.e. W.P.No. 1393/2003, which was considered and decided.

5. In the instant petition, the respondents in their reply have pointed out that pursuant to the order dated 15.3.2004 passed by this Court in W.P.No. 1393/2003, the petitioner was sent for examination by Apex Medical Board on 29.3.2004 and the

members of the medical board after careful examining the petitioner came to the categorical finding that the correct date of birth of the petitioner is as was entered in Form B Register i.e. 1.4.1944.

6. It was further submitted by the respondents that in the case of **G. M. Bharat Coking Coal Ltd. West Bengal Vs. Shib Kumar Dushad and others** { (2000) 8 S.C.C. 696} it is clearly observed by the Supreme Court that High Court should not interfere with the decision of the employer regarding correctness of date of birth as entered in the service record raised by the employee long after his joining the service and the employer decided the question following the procedure prescribed by statute, statutory rules or instructions, except in case of any arithmetical or typographical error apparent on the face of the record.

7. In the present case, pursuant to the order dated 15.3.2004, passed by this Court in W.P.No. 1393/2003, filed by the petitioner, the respondents have referred the matter to the Age Determination Committee and after examination of the petitioner by the Apex Medical Board on 29.3.2004, the Age Determination Committee has not found any change in the date of birth of the petitioner.

8. Having regard to the aforestated facts and circumstances, I am not inclined to permit the petitioner to raise the same dispute again in this petition which has been settled pursuant to the order dated 15.3.2004 passed in W.P.No. 1393/2003, by this Court.

9. In view of the foregoing, the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur